



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance - Deck

Kevin and Katherine Oliver/Map 217, Lot 44

May 5, 2010

**Applicant: Kevin and Katherine Oliver
121 King Road
Bedford, NH 03110**

Location: 44 Black Cat Island Road, Moultonborough, NH (Tax Map 217, Lot 44)

On April 21, 2010 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Kevin and Katherine Oliver (hereinafter referred to as the “Applicant” and/or “Owner”) for a variance from Article III (B) to allow for construction of a wooden deck within the fifty foot (50’) lake and roadway setbacks on the parcel located in the Agricultural Residential (AR) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby make the following findings of fact:

- 1) The property is located at 44 Black Cat Island Road (Tax Map 217, Lot 44).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Agricultural Residential (AR) Zoning District.
- 4) The proposed deck is to be made of wood and raised above the grade.
- 5) The project is to conform with the plan submitted by William J. McNair and entitled “Proposed Shoreland Re-Development Plan, 44 Black Cat Island Rd., Moultonborough, NH” and dated November 27, 2009.
- 6) The setbacks affected are the fifty foot (50’) setback from the roadway on Black Cat Island Road, and the fifty foot (50’) lake setback.
- 7) Granting the Variance does not diminish the value of surrounding properties as the neighborhood is largely comprised of single-family homes of like construction and style, some with similar decks.

- 8) Granting the Variance will not be contrary to the public interest as the use of the lot for residential use is in accordance with the permitted uses in the Agricultural Residential (AR) Zoning District, and decks are frequently associated with residential uses.
- 9) Special conditions do not exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship. The proposal could be modified or moved to be in accordance with the ordinance. As such, an unnecessary hardship does not exist for this application.
- 10) By granting the Variance, substantial justice is not done as the location and materials could be either moved or adjusted to another location on the site that would not be a violation of the setback requirements.
- 11) Granting the Variance is consistent with the spirit of the Ordinance as decks are permitted in the zoning district.

The Public Hearing was continued to May 5, 2010. The Board of Adjustment closed the Public Hearing on May 5, 2010. Based on the above Findings of Fact, the Board of Adjustment voted by a vote of five (5) in favor (Stephens, Hopkins, Bernstein, Heal, McCarthy) and none (0) opposed, to **DENY** the request for variance.

This decision shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

Robert Stephens
Chairman, Zoning Board of Adjustment

Date _____